IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1641 OF 2005

Mumbai Sagar-Putra Machhimar
Vividh Karyakari Sahakari
Society Ltd. & Ors. ... Petitioners

V/s.

Maharashtra Rajya Machhimar
Sahakari Sangh Ltd. & Ors. ... Respondents

Mr.E.R. Naik for Petitioners
Mr.B.K. Raje for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 24, 2005**

P.C.:

. A dispute has arisen between Respondent No.1 which sanctioned a loan of Rs.5 lacs to the Petitioner-Society. It appears that the amount has not been repaid by the Petitioner-Society and, therefore, the dispute came to be filed by Respondent No.1 under section 91 of the Maharashtra Cooperative Societies Act. Interim relief was sought by Respondent No.1 by way of an injunction from alienating or creating third party rights in respect of 5 fishing vessels. The Cooperative Court by its order dated 27.4.2004 rejected the Petitioner's application. Aggrieved by this order, Respondent No.1 preferred an appeal before the appellate Court constituted under the Maharashtra Cooperative Societies Act. The appellate Court on a consideration

of the submissions made before it has restrained the Petitioners from transferring, alienating, interfering or creating any third party interest in the five fishing vessels pending hearing and final disposal of the dispute. The appellate Court at the same time has not restrained Respondent Nos.2 to 7 from carrying out their fishing operations.

2. This order is impugned by contending that in the event Respondent No.1 succeeds in the dispute they can always have the award implemented and executed. Reliance is placed on the judgment of *Suryoday Allo-Metal Powders Ltd. v/s. Senior Intelligence Officer & anr.*, **2003(4) Bom.C.R. 284.**

3. I find that there is no reason to interfere with the impugned order. The Appellate authority has considered the fact that although it was agreed between the Petitioner-Society and Respondent No.1 to pay off the entire loan with interest by 31.3.2003 which period was extended upto 30.6.2003 the Petitioner-Society failed to repay the amount. The appellate authority has rightly injuncted the Petitioner-Society from disposing off the five vessels without affecting the fishing rights of Respondent Nos.2 to 7.

4. The judgment relied on by the learned Advocate

for the Petitioner is not applicable at all. That was a case in respect of Central Excise and Salt Act and the Bombay Relief Undertakings (Special Provisions) Act. The Appellate Court has passed the discretionary order and there is no need to interfere with the same.

5. Petition dismissed.